IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 1290 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/07/2001 in WP NO : 2513 OF 1995 on the file of the High Court.)

Between:

D.Radha Krishna Naidu S/o.D.Pedda Venkatappa Naidu
Madanapalle Chittoor dist

..... APPELLANT

AND

1 The State Transport Appellate Tribunal, Andhra Pradesh at Hyderabad
rep.by its Presiding Officer,
2 Regional Transport Authority Chittoor, rep.by its Secretary
3 Smt.R.Jayanthi W/o.R.V.Subhashchandra Bose
Palamaneru Chittoor Dist

.....RESPONDENTS

Counsel for the Appellant: MR.M.RAVINDRANATH REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR TRANSPORT

Counsel for the Respondent No.3 : Sri Narasimha Reddy

AND

WRIT APPEAL NO : 1291 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order

dated 20/07/2001 in WP NO : 13393 OF 1995 on the file of the High Court.)

Between:

D.Radha Krishna Naidu S/o. Pedda Venkatappa Naidu
Madanapalle Chittoor Dist

..... APPELLANT

AND

1 B.Prabhakar S/o.B.Gopal Naidu
Madanapalli Chittoor Dist
2 State Transport Appellate Tribunal A.P., Hyderabad
3 The Regional Tranasport Authority Chittoor
rep.by its Secretary
4 The Secretary Regional Transport Authority
Chittoor
5 R.Tilak, Sastry Street Madanapalli
Chittoor Dist

.....RESPONDENTS

Counsel for the Appellant: MR.M.RAVINDRANATH REDDY

Counsel for the Respondent No.1: MR.K.N.JWALA

Counsel for the Respondent Nos.2 to 4: Govt Pleader for Transport

Counsel for the Respondent No.5: MR.T.VENKATRAMANA

AND

WRIT APPEAL NO : 1357 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/07/2001 in WP NO : 13393 OF 1995 on the file of the High Court.)

Between:

R.Tilak S/o.late R.Narayan Reddy
D.No.X-89/8, Sastry Street Madanapalle,

Chittoor Dist

..... APPELLANT

AND

1 B.Prabhakar S/o. B.Gopala Naidu
307, Gopal Reddy Street, Madanapalle,
Chittoor Dist
2 The State Transport Appellate Tribunal A.P., Hyderabad
3 The Secretary Regional Transport Authority
Chittoor rep.by its Secretary
4 The Secretary Regional Transport Authority
Chittoor
5 D.Radha Krishna Naidu S/o.late D.Pedda Venkatappa

11-62, Dr.Cousin's Street Madanapalle, Chittoor Dist

.....RESPONDENTS

Counsel for the Appellant: MR.T.VENKATA RAMANA

Counsel for the Respondent No.1 : MR. K.N.JWALA

Counsel for the Respondent Nos.2 to 4: GP FOR TRANSPORT

Counsel for the Respondent No.5 : MR.M.RAVINDRANATH REDDY

The Court made the following :

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COMMON JUDGMENT : (per Sri B.Sudershan Reddy, J)

These three Writ appeals arise out of common order passed by a learned single Judge of this Court in W.P.Nos.13393 and 2513 of 1995, dated 20.07.2001.

2. In order to consider as to whether the judgment under appeal needs any modification at our hands, it may be just and necessary to notice a few relevant facts leading to filing of these writ appeals.

3. The Regional Transport Authority, Chittoor, vide its notification issued in the month of July, 1988, called for applications for grant of two pucca stage carriage permits to run as a town service on the route Santhagate (Madanapalle) to C.T.M. via Z.P.High School, A.P.S.R.T.C. Bus-stand, etc. That as per rotation in

Rule 211(a) of the A.P. Motor Vehicles Rules, two permits are required to be allotted to open competition applicants. That in all 25 applicants submitted their respective applications for consideration by the Regional Transport Authority, Chittoor. The primary authority having scrutinized all the 25 applications has short-listed 4 applications that includes the appellants in the writ appeals and the

respondents. That so far as the appellant in W.A.Nos.1290 and 1291 of 2001 is concerned, altogether he secured 7 marks and the appellant in W.A.No.1357 of 2001 also secured 7 marks. The respondent-B.Prabhakar also secured 7 marks whereas the respondent Smt R.Jayanthi secured 5 marks. The primary authority having considered the marks obtained by the parties referred to herein above and having found that 3 persons have got equal marks i.e. to say D.Radha Krishna Naidu, B.Prabhakar and R.Tilak, granted permits to D.Radha Krishna Naidu and R.Tilak. Aggrieved by the grant of permits by the primary authority, the respondent-B.Prabhakar filed A.P.No.513 of 1988 challenging the awarding of marks. Similarly, the respondent- Smt R.Jayanthi filed A.P.No.426 of 1988 challenging the marks awarded to both D.Radha Krishna Naidu and R.Tilak. The appeals were heard jointly and disposed of by the State Transport Appellate Tribunal, Andhra Pradesh, whereunder the appeal filed by the respondent-B.Prabhakar who secured 7 marks was dismissed and it was held that he was entitled for only 5 marks and not 7 marks. The Tribunal accordingly directed grant of permit to respondent-
Smt R.Jayanthi and R.Tilak. Aggrieved by the same, two writ petitions were filed by B.Prabhakar and D.Radha Krishna Naidu. The learned single judge after an elaborate

consideration of the matter dismissed W.P.No.2513 of 1995 filed by D.Radha Krishna Naidu and accordingly allowed W.P.No.13393 of 1995 filed by B.Prabhakar. Hence these writ appeals.

4. We have elaborately heard the learned counsel appearing on behalf of the appellants; learned Government Pleader for Transport as well as the learned counsel for the respondents. During the course of hearing of these writ appeals, it is brought to our notice by the learned counsel appearing on behalf of the parties that subsequent to the decision of the authorities, some more stage carriage permits were granted on the very same town service route. It is also brought to our notice that except the respondent-R.Tilak, the rest of the 3 parties before us namely D.Radha Krishna Naidu, B.Prabhakar and Smt R.Jayanthi are plying their respective buses on the said town service route.

5. Having regard to the nature of controversy and having regard to negligible difference in the marks obtained by each of the applicants, we consider it appropriate to direct the respondents-authorities to grant permit to the appellants D.Radha Krishna Naidu and as well as R.Tilak without in any manner disturbing the permits already granted to Smt R.Jayanthi and B.Prabhakar. In the result, instead of 2 applicants all the 4 applicants whose claims for grant of permits have been short listed by the primary authorities shall be granted permits to run the bus on the said route. In fact, except Sri V.Narasimha Reddy, learned counsel appearing on behalf of Smt R.Jayanthi rest of the counsel have expressed that they have no objection for granting

permits to all the short listed applicants who are parties before us. More than the rival claims of the short listed candidates, public interest in the matter of grant of permits is a paramount consideration. That if the public interest element is taken into consideration the same shall be best sub-served by directing the respondents to grant permits to the unsuccessful applicants also, as such grant may result in plying of more number of buses which may cater to the needs of the people in general.

6. The Supreme Court in the similar circumstances in K.BALASUBRAMANIA Vs. N.M.SAMBANDAMOORTHY[1] observed that under Section-47 (1) of Motor Vehicles Act, 1939, it is ultimately on the touchstone of public interest that selection of an applicant for grant of permit must be justified. The number of marks obtained by each applicant can only provide a guiding principle for the grant of permit. The marks obtained by the applicants can never override the consideration of public interest which must dominate the selection in all cases.

7. In the similar circumstances, the Supreme Court in M.CHINNASWAMY Vs. DHANDAYUTHANPANI ROADWAYS (P) LIMITED[2] having noted the fact that the permit to be granted was only one “but by orders of Court or other authorities, both the parties have been allowed to ply their buses. It seems to be so obvious that in public interest if two stage carriages have been plying on the route for the last 16 years there is no reason to confine it to one.” Of course, it was a case where both sides agreed that there was necessity for two permits in the route. Similarly, in the instant case, expect Sri Narasimha Reddy,

learned counsel appearing on behalf of Smt R.Jayanthi rest of the counsel have agreed that there is a necessity for more than two permits to be granted on the route. Having taken the public interest factor into consideration, we consider it appropriate to put an end to this litigation and dispose of the writ appeals by directing the respondent-primary authority to forthwith consider, grant and issue permits to D.Radha Krishna Naidu and as well as R.Tilak enabling them to run the buses without disturbing the permits already granted under the orders of the Court and the appellate authority in favour of Smt R.Jayanthi and B.Prabhakar. The adjustment of timings is required to be gone into by the authority and if possible to settle it by mutual consent between the parties. There shall be an order accordingly.

8. The writ appeals are accordingly disposed of. No costs.

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(B.SUDERSHAN REDDY, J)

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(GHULAM MOHAMMED, J)

22.06.2004
Note:
Furnish CC by
One week.
DR/ks

One Fair Copy to the Hon'ble Sri Justice B.Sudershan Reddy (for his Lordship's kind perusal)

To

1 The Presiding Officer, State Transport Appellate Tribunal, Andhra
Pradesh at Hyderabad..
2 The Secretary, Regional Transport Authority, Chittoor.
3 Two CCs to Govt Pleader for Transport (OUT)
4 Two CD copies
5 One spare copy
6 Regional Transport Authority, Chittoor, represented by its
Secretary.

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[1] AIR 1975 SC 818
[2] AIR 1977 SC 2095